



# Attorney Specialization

## GUIDE FOR INDEPENDENT CERTIFYING ORGANIZATIONS

Indiana Commission for Continuing Legal Education  
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<http://courts.in.gov/cle>

## GETTING YOUR ORGANIZATION CERTIFIED AS

### Approved Independent Certifying Organization for Attorney Specialization

The Commission for CLE reviews, approves and monitors independent organizations that certify lawyers as specialists in a practice area. Examples include elder law, family law, trust and estate planning, and civil trial advocacy.

The regulation of these independent certifying organizations (ICOs) is outlined in [Admission and Discipline Rule 30](#). Organizations that wish to become an ICO should also be familiar with the Admission and Discipline Rules in their entirety and [Professional Conduct Rules 7.1–7.4](#).

Once approved, ICOs are listed on the [Commission for CLE website](#).

### Standards for Accreditation of Independent Certification Organizations

#### SECTION 1: POLICY STATEMENT

##### 1.01

This document establishes standards by which the Indiana Commission for Continuing Legal Education ("Commission") will accredit specialty certification programs for lawyers in particular fields of law. The Standards require that an accredited organization through its attorney specialization plan demonstrate that its plan will accomplish the purposes of Indiana Admission and Discipline Rule 30 Sec. 1.

The Standards are designed to enable the Commission to evaluate thoroughly the objectives, standards and procedures of Applicants. Notwithstanding anything to the contrary, for compelling reasons consistent with the purpose of these Standards, the Commission may suspend or alter any part of these Standards in particular matters.

#### SECTION 2: DEFINITIONS

##### 2.01

- a. "Applicant" means an independent certifying organization ("ICO") which applies to the Commission for accreditation or re-accreditation under these Standards.
- b. "Commission" means the Indiana Commission for Continuing Legal Education.
- c. "Independent Certifying Organization" means an organization, bar association, group, or other entity which is non-profit and certifies or intends to certify lawyers as specialists.
- d. "Standards" means the Indiana Commission for Continuing Legal Education Standards For Accreditation and Reaccreditation of Specialty Certification Programs For Lawyers as promulgated or amended.

#### SECTION 3: AUTHORITY

##### 3.01

The authority to revise and amend these requirements, to grant and withdraw accreditation, and to grant and withdraw re-accreditation is vested in the Commission, subject to approval by the Indiana Supreme Court.

## SECTION 4: REQUIREMENTS FOR ACCREDITATION OF ICO'S

In order to obtain accreditation by the Commission for a specialty certification program, an Applicant must demonstrate that the program operates in accordance with the following standards:

### 4.01

*Purpose of Organization.* The Applicant must demonstrate that one of its primary purposes is the identification of lawyers who have a demonstrated proficiency in the area of law or practice for which specialist certification is being issued. If the identification of lawyers for which specialist certification is being sought is not the primary purpose of the Applicant, but is simply one of the primary purposes, the Applicant must also show that its certification program has as a goal the development and improvement of the professional competence of lawyers in the area of law or practice for which specialist certification is being sought.

### 4.02

*Organizational Prerequisites.* Any program designed to certify lawyers as specialists has a continuing responsibility to those it certifies to maintain the integrity and the value of the specialty designation.

The primary criteria which will be used in determining whether this responsibility has been met are:

- a. history of adequate financing during the three (3) years preceding the filing of the application. If the Applicant is newly formed, this criteria will be applied to a parent or sponsoring organization, or to individual founders, if no founding organization is involved;
- b. the existence of a budget financial plan for three (3) years following a grant of accreditation should it be made;
- c. the presence of persons retained by or on the governing board, evaluation committees and staff of the organization who are qualified by experience, education and background to carry out the program of certification operated by the Applicant, including persons with a background in evaluating the validity and reliability of examinations, as well as experienced practitioners in the areas of law in which the organization conducts certification programs;
- d. management, administrative and business practices which allow the Applicant to operate its certification program effectively and provide efficient service to lawyers who submit applications for certification. The processes and procedures used in the certification process should include safeguards to ensure unbiased consideration of lawyers seeking certification; and
- e. existence of a handbook, guide or manual which outlines the standards, policies, procedures, guidelines for self-study, and application procedures.

### 4.03

*Decision Makers.* A majority of the body within an Applicant organization reviewing applicants for certification of lawyers as specialists in a particular area of law shall consist of lawyers who, in the judgment of the Commission, are experts in the field of certification. For the purpose of this criterion, a person may be deemed to be an expert in the field of certification if he or she is:

- a. certified in the area of law by an organization accredited by this Commission, or another state or territory of the United States, or the District of Columbia; or
- b. meets the qualifications set out in Section 4.06(A) of the Standards.

#### 4.04

*Uniform Applicability of Certification Requirements and Non-Discrimination.* The Applicant's documents and records submitted in conjunction with its application for accreditation will be examined to ensure that the requirements for granting certification are clear and easily applied.

- a. The Applicant shall adopt, publish and enforce open membership and certifications standards and procedures which do not unfairly discriminate against the members of the Bar of Indiana individually or collectively.
- b. Membership in any organization or completion of educational programs offered by any specific organization shall not be required for certification.
- c. Applicants shall not discriminate against any lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age. This paragraph does not prohibit an Applicant from imposing reasonable experience requirements on lawyers seeking certification or re-certification.

#### 4.05

*Definition and Number of Specialties.* An Applicant shall specifically define the specialty area or areas in which it proposes to certify lawyers as specialists.

- a. Each specialty area in which certification is offered must be an area in which significant numbers of lawyers regularly practice. Specialty areas shall be named and described in terms which are understandable to the potential users of such legal services, and in terms which will not lead to confusion with other specialty areas. The Commission reserves the right to specify the name to be used to designate a specialty area.
- b. An Applicant may seek accreditation to certify lawyers in more than one specialty area, but in such event, the organization shall be evaluated separately with respect to each specialty program. Any number of ICO's may be approved to issue certifications in the same or overlapping fields or groups of closely related fields of law, so long as the approval is consistent with the purposes set out in Ind. Admin. Disc. Rule 30.
- c. An Applicant shall propose to the Commission a specific definition of each specialty area in which it seeks accreditation to certify lawyers as specialists. The Commission reserves the right to modify or reject the proposed definition.

#### 4.06

*Certification Requirements.* The following shall be required by the Applicant for certification of lawyers as specialists.

- a. *Evidence of Substantial Involvement in the Practice Area.* The Applicant must require that a lawyer seeking certification make a satisfactory showing of experience through substantial involvement in the specialty area. Substantial involvement generally includes the type and number of cases or matters handled and the amount of time spent practicing in the specialty area. In order to meet the Standard, the Applicant's certification criteria must require that the time spent practicing the specialty be at least twenty-five percent (25%) of the total practice of a lawyer engaged in a normal full-time practice throughout the three-year period immediately preceding the lawyer's application.
- b. *Peer Review.* The Applicant must require that a lawyer seeking certification submit the names of at least five (5) references who are attorneys, or judges where appropriate, who are

knowledgeable regarding the practice area and are familiar with the competence of the lawyer.

1. The Applicant's procedures must provide that the Applicant, not the lawyer seeking certification, sends the reference forms to potential references.
  2. The reference forms should inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the lawyer seeking certification. The form should also inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer's dealings with judges and opposing counsel.
  3. The materials provided to a lawyer seeking certification must specify that the lawyer may not submit as a reference the name of any lawyer or judge who is related to the lawyer seeking certification or currently engaged in legal practice with that lawyer.
  4. The Applicant should reserve the right to seek and consider reference forms from persons of the organization's own choosing.
- c. *Written Examination.* The Applicant must require that a lawyer seeking certification pass a written examination of suitable length and complexity. The examination must test the knowledge and skills of the substantive and procedural law in the specialty area and shall include professional responsibility and ethics as it relates to the particular specialty. The Commission may appoint a panel to review the substantive content of the examination and the procedures for administering the examination. The following factors will be used to judge the suitability of the examination used by the Applicant:
1. evidence that the examination's pass/fail levels are established in a manner that is generally accepted as being valid.
  2. evidence of both reliability and validity for each form of the examination. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflect the knowledge and skills needed for an enhanced level of skill and expertise in the specialty area;
  3. evidence of periodic review of the examination to ensure relevance to knowledge and skills needed in the specialty area as the law and practice methods develop over time; and
  4. evidence that appropriate measures are taken to protect the security of all examinations.
- d. *Educational Experience.* The Applicant must require that a lawyer seeking certification has completed a minimum of thirty-six (36) hours of participation in educational activities in the specialty area in the three (3) year period preceding the lawyer's application for certification.
1. The Applicant may allow a lawyer seeking certification to meet this requirement through any of the following means, including a combination of them:
    - a. attending programs of continuing legal education approved by this Commission;
    - b. teaching courses or seminars in the specialty area approved by this Commission;
    - c. participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area approved by this Commission; or
    - d. writing published books or articles concerning the specialty area.

2. The Applicant should require a lawyer seeking certification to provide evidence showing that the programs, courses, seminars, conferences and publications listed above contain sufficient intellectual and practical content so as to increase a lawyer's knowledge and ability in the specialty area.
- e. Good Standing. A lawyer seeking certification must be duly admitted to the bar of this state, in active status, and in good standing, throughout the period for which the certification is granted.
  - f. Lawyer Compliance. A lawyer certified by an ICO approved by the Commission must be in full compliance with Indiana Admission and Discipline Rule 30, the Rules and Policies of the ICO, and the Rules and Policies of the Commission.
  - g. Supporting Documents. The application for accreditation must be accompanied by all of the following supporting documents:
    1. the Applicant's governing documents, including articles of incorporation, bylaws, and resolutions of the governing bodies of the Applicant or any parent organization, which resolutions relate to the standards, procedures, guidelines or practices of the Applicant's certification program;
    2. financial information about the Applicant and any supporting parent organization as specified on forms provided by the Commission;
    3. biographical summaries of members of the governing board, senior staff and members of advisory panels, including specific information concerning the degree of involvement in the specialty area of persons who review and pass upon applications for certification;
    4. materials furnished to lawyers seeking certification, application forms, booklets or pamphlets describing the certification program, peer reference forms, rules and procedures and evaluation guides;
    5. copies of examinations given in the past two (2) years, or in the case of new organizations, copies of proposed examinations (in those cases where an organization accepts examination by another entity, copies of such examinations), with evidence of their validity and reliability, such as written examination procedures, including a description of how examination are developed, conducted and reviewed; a description of the grading standards used; and the names of persons responsible for determining pass/fail standards. Actual or proposed written examinations are to be made available on a confidential basis for review by a person designated by the Commission, with the understanding that the Applicant, at its option, may rule the person who reviews the examination ineligible for certification by the Applicant for a period of three (3) years from the time of such designation;
    6. the definition of the specialty or specialties in which the Applicant certifies specialists; and
    7. such other materials or information deemed necessary by the accreditation review panel or the Commission.

#### 4.07

*Impartial Review.* The Applicant must provide evidence that it maintains and publishes a policy providing an appeal procedure for a lawyer seeking certification to challenge the decision of the persons who review and pass upon applications for certification. The policy must provide a lawyer seeking certification the

opportunity to present his or her case to an impartial decision maker in the event of denial of eligibility or denial of certification. Impartial decision-makers may include persons associated with the Applicant.

#### 4.08

##### *Requirements for Re-Certification*

- a. The Applicant must have in existence or be in the process of developing a plan for periodic re-certification.
- b. The period of certification or re-certification may not exceed five years.
- c. The plan for periodic re-certification must be designed to measure continued competence and enhance the continued competence of certified lawyers. Re-certification requirements must be at least as stringent as those for initial certification in the areas of substantial involvement, peer review, educational experience and good standing.
- d. In cases where a lawyer was certified by the Applicant Organization prior to its accreditation by the Association and such lawyer did not successfully complete a written examination that meets the requirements set out in Standard 4.06(C), the Applicant Organization must require that the lawyer successfully complete such an examination upon re-certification.

#### 4.09

*Revocation of Certification.* The Applicant must maintain a procedure for revocation of certification, including a requirement that a certified lawyer report his or her disbarment or suspension from the practice of law in any jurisdiction to the Applicant.

## SECTION 5: ACCREDITATION PERIOD AND RE-ACCREDITATION

#### 5.01

Initial accreditation by the Commission of any Applicant shall be granted for five years.

#### 5.02

To retain Commission accreditation, a certifying organization shall be required to apply for re-accreditation during the period between six and twelve months prior to the end of the fifth year of its initial accreditation period and every five years thereafter. The organization shall be granted re-accreditation upon showing of continued compliance with these Standards.

## SECTION 6: REPORTING

#### 6.01

An ICO shall be responsible for reporting in writing to the Commission as follows:

- a. by April 1 of each calendar year, a report describing the current status of each accredited program, including the names and current addresses of lawyers certified or re-certified as specialists; and
- b. any proposed changes in the organization's standards, guidelines or criteria for certification, at least sixty (60) days before they are effective.

## SECTION 7: COMMUNICATION OF ACCREDITATION

#### 7.01

Upon accreditation, an ICO may state that it is accredited by the Commission to certify lawyers in the specialty area(s) under the following conditions:

- a. An ICO using this announcement or otherwise referring to its accreditation by the Commission must provide notice to lawyers applying for certification that accreditation by the Commission indicates solely that the organization's certification program has met the Commission's requirements.

This announcement must indicate the specialty areas in which accreditation has been granted by the Commission.

## 7.02

An ICO shall not permit certified lawyers to state or imply that they are certified or accredited by the Commission. An ICO shall actively enforce this prohibition.

## SECTION 8: REVOCATION OF ACCREDITATION

### 8.01

*Grounds for Revocation of Accreditation.* The accreditation of an Accredited Organization shall be revoked if the organization has ceased to exist, or has ceased to operate its certification program in compliance with the Standards.

### 8.02

*Hearing.* The Commission, on its own or acting upon a Complaint from a third party, may determine that reasonable grounds exist for consideration of revocation of accreditation. In such case, the Commission will schedule the matter for deliberation at one of the commission's regularly scheduled business meetings. The Accredited Organization will be provided prompt written notice of the meeting and an opportunity to be heard at the meeting.

### 8.03

*Decision.* If the Commission determines that the Accredited Organization has ceased to exist, or has ceased to operate its certification program in compliance with the Standards, then it will revoke the accreditation.

### 8.04

*New Application for Accreditation.* An ICO whose accreditation has been revoked may re-apply, at a subsequent time, for accreditation without prejudice. However, the Commission may consider the reasons accreditation was revoked to determine whether the problem requiring revocation is corrected.

### 8.05

*Voluntary Withdrawal from Accredited Status.* An Accredited Organization may request that its accreditation by the Commission be withdrawn by providing written notice to the chair of the Commission at the offices in Indianapolis.

## SECTION 9: DISCLOSURE OF INFORMATION

### 9.01

Except for the circumstances below, the files, records and documents submitted by an Applicant as part of the accreditation process will be deemed public information.

### 9.02

An Applicant may request that distribution of its materials by the Commission or any person acting as a panel member or advisor at the request of the Commission be limited to those persons who need the information to fulfill obligations specified in these Rules. In such cases, the Commission will take reasonable



steps to honor such a request, but cannot assume responsibility for disclosure due to circumstances beyond its immediate control.

### 9.03

Except as a part of this Commission's Administration of Rule 30, actual or proposed written examinations submitted will be kept confidential.

## SECTION 10: NON-COMPLIANCE WITH GOVERNING RULES OR PROCEDURES

### 10.01

An Applicant or an ICO that does not comply with these requirements may be denied accreditation or re-accreditation or may have its accreditation revoked.

## SECTION 11: INDEMNIFICATION AND HOLD HARMLESS

### 11.01

ICOs and Applicants agree to hold and save the Commission members, its members of any specialization related advisory committees, contractors, volunteers, officers, agents and employees harmless from liability of any kind, including costs and expenses, for any suit or damages sustained by any person or property by virtue of an ICO's or Applicant's activities relating to accreditation by the Commission or for any consequences of an ICO's or Applicant's involvement in seeking or sustaining accreditation of its specialty program(s), by virtue of any act or omission by the Commission members, its members of any specialization related advisory committees, officers, contractors, agents, employees and volunteers.

## SECTION 12: AUTHORITY TO IMPLEMENT STANDARDS

### 12.01

Consistent with these Standards, the Commission shall have the authority to:

- a. Interpret these Standards;
- b. Adopt rules and procedures for implementing these Standards, and amend such rules and procedures as necessary;
- c. Recommend the Supreme Court of Indiana adopt an appropriate fee schedule to administer the Indiana Certification Review Plan.
- d. Consider applications by any ICO for accreditation or re-accreditation under these Standards, evaluate those requests in accordance with the Standards and recommend approval by the Commission of such requests when it deems the organization has met the requirements as set forth in these Standards; and
- e. Recommend the revocation of accreditation in accordance with the provisions of Section 11.01 of these Standards.

## SECTION 13: ADOPTION AND AMENDMENT

### 13.01

These Standards become effective upon their adoption by the Commission and the approval of the Supreme Court of Indiana;

### 13.02

The power to approve an amendment to these Standards is vested in the Commission subject to approval of the Supreme Court of Indiana.

## Forms

- [Background Information for each Member of the Governing Board, Evaluation Committee and Staff](#)
- [Application for Accreditation](#)
- [Application for Reaccreditation](#)